

**PETITION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

AO 243 (Rev. 2/95)

UNITED STATES DISTRICT COURT		District Eastern District of Oklahoma
Name of Movant Ricky Leon Dority	Prisoner No. 03636-063	Case No. CR-99-9-S
Place of Confinement FCI Texarkana, Texas		CIV 08 - 279 - FHS
UNITED STATES OF AMERICA Respondent-Plaintiff		V. RICKY LEON DORITY Movant-Defendant (name under which convicted)

MOTION

1. Name and location of court which entered the judgment of conviction under attack United States
Eastern District of Oklahoma

2. Date of judgment of conviction 1999

3. Length of sentence 235 Months Imprisonment & 5 years supervised release.

4. Nature of offense involved (all counts) One-Count Indictment; charging 18 U.S.C. §922(g)(1)
felon in possession of a firearm

FILED

JUL 24 2008

WILLIAM B. GUTHRIE
Clerk, U.S. District Court

By: _____
Deputy Clerk

5. What was your plea? (Check one)

(a) Not guilty ☒ **XXX**

(b) Guilty ☐

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

N/A No plea

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☒ **XXXX**

(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒ **XXX**

8. Did you appeal from the judgment of conviction?

Yes ☒ **XXX** No ☐

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9. If you did appeal, answer the following:

(a) Name of court U.S. Tenth Circuit Court of Appeals

(b) Result Affirmed

(c) Date of result May 24, 2000

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court SEE MEMORANDUM IN SUPPORT

(2) Nature of proceeding " "

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court SEE MEMORANDUM IN SUPPORT

(2) Nature of proceeding _____

(3) Grounds raised _____

Yes ☐ No ☐

(6) Date of result _____

Yes ~~XX~~

No ☐

Yes~~XIX~~

No ☐

SEE MEMORANDUM IN SUPPORT

[illegible]

Caution: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Conviction obtained by use of an unconstitutional statute; 18 U.S.C. §922(g)(1), in violation of the Second Amendment

Supporting FACTS (state *briefly* without citing cases or law)

SEE MEMORANDUM IN SUPPORT

B. Ground two: N/A Only one ground.

Supporting FACTS (state *briefly* without citing cases or law)

C. Ground three: N/A

Supporting FACTS (state *briefly* without citing cases or law)

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D. Ground four: N/A

Supporting FACTS (state *briefly* without citing cases or law)

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what grounds were not so presented, and give your reasons for not presenting them:

The Second Amendment violation was not previously raised because federal courts had
previously held the right was a collective State (Militia) right; on June 26, 2008,
the Supreme Court held the Second Amendment right of the people to keep and bear arms
is, and always has been, an individual right that preexisted the formation of the
United States and the Bill of Rights; Heller v. D.C., 07-290 (6/26/2008).

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☒ No ☐ I filed a §2241 in my district of confinement on this issue.

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing Jim McClure, Attorney At Law, 502 Court Street
Muskogee, Oklahoma 74401

(b) At arraignment and plea Same

(c) At trial Same

(d) At sentencing Same

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(e) On appeal Same(f) In any post-conviction proceeding None - Pro Se(g) On appeal from any adverse ruling in a post-conviction proceeding Pro Se

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

N/A

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, movant prays that the Court grant petitioner relief to which he or she may be entitled in this proceeding.

NO ATTORNEY

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

July 22, 2008

(Date)

Richy Leven Datta

Signature of Movant